United Nations S/AC.37/2003/(1455)/81

Security Council

Distr.: General
29 October 2003
English
Original: Spanish

Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 28 October 2003 from the Permanent Mission of Mexico to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Mexico to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities, and has the honour to submit the report prepared by the Government of Mexico in accordance with paragraph 9 of Security Council resolution 1455 (2003) (see annex).

03-58893 (E) 111103 121103

Annex to the note verbale dated 28 October 2003 from the Permanent Mission of Mexico to the United Nations addressed to the Chairman of the Committee

Report of Mexico pursuant to paragraphs 6 and 12 of resolution 1455 (2003)

I. Introduction

1. **Please provide a description of activities, if any, by Osama bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.**

To date, no activities by Osama bin Laden, Al-Qaida, the Taliban or their associates have been detected in Mexico.

II. Consolidated List

2. **How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?**

The Ministry of Finance and Public Credit has informed the financial institutions of the contents of the Consolidated List issued by the Committee with a view to identifying any persons or entities with possible links to the groups or persons indicated.

Within the Mexican legal system, aspects relating to suppression of the financing of terrorism are being incorporated into the existing financial laws.

Furthermore, the List is familiar to the Central Offices (intelligence services) and the regional offices of the National Migration Institute — a unit of the Ministry of the Interior — in the states of the Republic, thereby making it possible to prevent effectively the entry to the national territory of any persons whose names appear on the List.

The Institute has taken particular care in reviewing migration documents for nationals of countries from which persons travel only rarely to Mexico for migration or tourism purposes.

The Institute has strengthened measures to control travel at all points of entry (land, sea and air). It thoroughly inspects the documentation of persons wishing to enter Mexican territory through a rigorous scrutiny of the authenticity of the documents and the veracity of the information provided by foreign nationals.

The Institute maintains close communication with other security organs in order to collaborate in detecting acts possibly linked to terrorism.

In addition, the Committee's List has been circulated to the police and consular authorities with a view to incorporating it into the procedures followed by their administrative bodies.

All Mexican diplomatic and consular offices have instructions not to issue a visa to any person whose name is on the List and to inform the Ministry of Foreign Affairs immediately should any person included in the List request a visa.

3. **Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.**

To date, no problem of implementation with regard to the List has been encountered.

4. **Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.**

On 1 November 2002, the Mexican Government, by communication S/AC.37/2002/COMM.53/12, transmitted confidential information to the sanctions committee regarding the Consolidated List of individuals and entities associated with Osama bin Laden, Al-Qaida and the Taliban.

5. **Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.**

On 1 November 2002, the Mexican Government, by communication S/AC.37/2002/COMM.53/12, transmitted confidential information to the sanctions committee relating to the Consolidated List of individuals and entities associated with Osama bin Laden, Al-Qaida and the Taliban.

6. **Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.**

No listed individuals have brought a lawsuit or engaged in legal proceedings against the Mexican judicial authorities.

7. **Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.**

On 1 November 2002, the Mexican Government, by communication S/AC.37/2002/COMM.53/12, transmitted confidential information to the sanctions committee relating to the Consolidated List of individuals and entities associated with Osama bin Laden, Al-Qaida and the Taliban.

8. **According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.**

In Mexico there is no separate legal category that criminalizes the recruitment of members of terrorist groups. However, those participating in the crime of terrorism may be punished under the provision contained in article 13, paragraphs V and VI, of the Federal Penal Code, which establishes that those who wilfully cause

another person to commit the crime or those who aid or abet another person in committing the crime are accomplices to that crime. When the crime is committed by three or more persons, the person who does the recruiting may be punished as a participant in organized crime under the provisions of article 2 of the Federal Organized Crime Act. If no organization of the crime is involved, this would be considered as a crime of unlawful association, and the person who does the recruiting may be punished as a participant in the crime of unlawful association provided for in article 164 of the Federal Penal Code.[1]

On the basis of the foregoing, unless it is proved that the crime of terrorism was attempted or carried out and that the person in question participated in it, the recruitment of members of terrorist groups is not a punishable offence. That is why the specific category of recruitment of members of criminal groups is included in the package of legislative reforms currently under consideration by the Congress of the Union.

III. Financial and Economic Assets Freeze

Under the sanctions regime (paragraph 4 (b) of resolution 1267 (1999) and paragraphs 1 and 2 (a) of resolution 1390 (2002)), States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, assets or resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.

The Ministry of Finance and Public Credit (SHCP) has disseminated the lists of persons and entities linked to terrorism elaborated by the Security Council within the financial sector, in order to prevent the use of financial institutions by such persons or organizations in any act or activity that might be linked to terrorism.

The reporting systems for the prevention and detection of operations involving resources derived from illicit sources, set up in 2002, may be used by financial institutions to identify, in the same way, operations or acts that might be associated with terrorist organizations or activities. There is even the possibility of alerting the relevant countries or authorities in good time to accounts or repeated transfer of funds for such purposes.

It should be noted that Mexican legislation provides for the seizure and forfeiture of property derived from any illicit activity, without reference to specific legal categories or concepts. In addition, SHCP has the power to freeze funds immediately on the basis of a judicial order.

SHCP has signed mutual cooperation agreements with several countries, notably the United States of America, Canada and France. The exchange of information is conducted through the Division for Investigation of Operations,

[1] For additional information, see the first report of Mexico pursuant to Security Council resolution 1373 (2001) (S/2001/1254), especially the part relating to para. 2 (a) of the resolution.

acting as the Financial Intelligence Unit, which in turn gathers and analyses reports of unusual, exceptional or suspicious operations.

It may be pointed out that there are also supervisory bodies to oversee proper compliance with the regulations in force, including the National Banking and Securities Commission, the National Insurance and Guarantees Commission and the National Commission on the Retirement Savings System.

Currently, the legislation against money-laundering is applicable to the following entities, which make up the Mexican financial system: credit institutions, limited-scope finance companies, exchange bureaux, securities dealers, insurance institutions, financial institutions and pension-fund administrators.

9. **Please describe briefly:**

- **The domestic legal basis to implement the asset freeze required by the resolutions above.**

The following legal provisions are derived from article 22 of the Constitution of the United Mexican States.

Article 29 of the Federal Organized Crime Act provides that, where sufficient evidence exists that a person is a member of organized crime (including terrorist organizations), the Public Prosecutor's Office, with prior judicial authorization, may seize (freeze) the assets of that persons, together with any assets in which he or she has an interest, the onus being on those holding such assets to prove that they were lawfully acquired.

Article 40 of the Federal Penal Code provides that the instruments of the crime, and/or any items that constitute an object or product of the crime, shall be forfeited if their use is prohibited. If they may legally be used, they shall be forfeited if the crime was intentional. If they belong to a third party, they shall be forfeited only if the third party who controls them or has acquired title to them is subject to one of the conditions referred to in article 400 of the Penal Code (complicity), regardless of the juridical nature of the third party — owner or possessor — and of his or her relationship with the offender, if any.

The above-mentioned article provides as a precautionary measure that the competent authorities shall immediately seize (freeze) assets that could be subject to forfeiture during the preliminary investigation or the trial.

Article 181 of the Federal Code of Criminal Procedure provides that the instruments, objects or products of the crime, as well as property for which there are indications that it is or may be linked to the crime, shall be seized (frozen) by the competent authority (Public Prosecutor's Office or jurisdictional authority) with a view to ensuring that the property is not altered, destroyed or hidden.

The power to confiscate or freeze assets vested in the federal authorities by the above-mentioned provisions is not limited by the nature of such assets; they include personal property, buildings, financial assets (bank accounts, securities, etc.) and economic resources.[2]

[2] See the first report of Mexico pursuant to Security Council resolution 1373 (2001) (S/2001/1254), especially the part relating to para. 1 (c) of the resolution.

- **Any impediments under your domestic law in this context and steps taken to address them.**

Up to now there have been none.

10. **Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.**

Mexican government offices, including the Ministry of Finance and Public Credit (SHCP), the Ministry of Foreign Affairs and the Office of the Attorney-General of the Republic, work jointly on reporting situations that could be related to acts, individuals or entities associated with terrorism or its financing.

SHCP prepares secondary regulations and authorizes operations manuals for financial intermediaries.

The Division for Investigation of Operations is a unit of SHCP that receives reports and analysis of exceptional, unusual and suspicious operations.

Likewise, the national monitoring commissions under SHCP require financial intermediaries to provide up-to-date financial information about their operations.

All the above-mentioned structures take the necessary steps to arrange for provisions or reforms of Mexican legislation in order to comply with agreements or requirements previously established with international bodies, including with regard to terrorist acts or the financing of terrorism. The purpose of these steps is to provide a legal framework for regulating any unlawful acts committed against the State itself or against another Member State.

11. **Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.**

The national financial system has tools for identifying customers in order to delve more deeply into the origin of their assets. In particular, to open accounts or make contracts or even to carry out operations with customers and users, financial entities require the information and documents listed in the following table to be submitted:

	Type of person			
	Natural		*Legal*	
Requirements	*Mexican*	*Foreign*	*Mexican*	*Foreign*
Valid official identification document (with signature, photograph and address)	X	X	X	X
Proof of address	X	X	X	X
Federal Taxpayers Registration and Tax Identification Numbers	X	X	X	X
Single Population Register Code	X			
Notarized powers of attorney	X	X	X	X
Attestation of incorporation			X	
Passport/immigration status		X		
Attestation of legal existence				X

The legal framework is primarily constituted by:

- Federal Tax Code;
- Federal Penal Code, article 139;
- Federal Organized Crime Act, articles 2, 4, 9, 43 and 44;
- Credit Institutions Act, article 115;
- Securities Market Act, article 52 bis 4;
- General Act on Credit Organizations and Related Activities, article 95;
- General Act on Mutual Insurance Institutions and Companies, article 140;
- Federal Act on Guarantee Institutions, article 112;
- Act on Investment Firms, article 91;
- Act on Savings and Loan Associations, article 124;
- Basic Law on Rural Finance, article 124;
- General Rules establishing measures and procedures for preventing, detecting and controlling acts or operations by pension-fund administrators that may come under the provisions of article 400 bis of the Federal Penal Code.

Mexican financial institutions determine which operations are to be reported as unusual, in accordance with the criteria established in the operations manuals authorized by SHCP. In addition, note that Mexican financial regulations on the prevention of operations funded by the proceeds of illegal activities uses the term "unusual operation" rather than "suspicious transaction".

The Division for Investigation of Operations, in the Ministry of Finance and Public Credit, acts as Mexico's Financial Intelligence Unit (as defined by the Egmont Group) and is responsible for analysing the reports transmitted by financial institutions. Where necessary, it determines whether there is a well-founded

suspicion of money-laundering or other criminal activity that should be reported to the Office of the Attorney-General of the Republic.

Mexican financial institutions and those constituted under Mexican law are required, under the acts and provisions by which they are governed, to comply with "know your customer" procedures and the suspicious transactions reporting system in accordance with the criteria set out in the operations manuals authorized by SHCP. Note that all financial institutions constituted in the national territory, irrespective of the origin of their capital, are considered for all intents and purposes as Mexican or national financial institutions.

These manuals provide that, in order to characterize an operation as unusual, these institutions must consider, inter alia, the following:

(1) The specific circumstances and background of each of their customers, i.e., occupation, line of business or corporate purpose;

(2) The amounts of the operations they commonly carry out, their relationship to the activities referred to in the previous paragraph, the type of funds transfer that the customer usually makes and the currency or other medium in which it is made;

(3) Prevailing commercial and banking customs and practices in the market in which they operate;

(4) Unusually high amounts, complexity and atypical patterns of transactions without apparent economic or lawful cause;

(5) Multiple or separate amounts that, added together, equal or exceed the equivalent of US$ 10,000;

(6) Instances where natural or legal persons refuse to provide identification documents, submit false information, seek to evade the established reporting requirements, attempt to bribe or intimidate employees of the institutions in order to obtain their cooperation in carrying out operations or contravening the regulations that prevent them, or where there are doubts as to the identity of the beneficial owner of the funds.

Mexican financial institutions or those constituted under Mexican law must, to the extent possible, examine the background and purpose of unusual operations and put the results of their examination in writing.

In characterizing any operation, financial institutions must also refer to the following principles:

"**Know Your Customer.**" The application of this principle makes it possible to know the specific circumstances of each customer (natural and legal persons), such as occupation, line of business or corporate purpose.

Inconsistency. This element is normally present in any unusual operation, since there is usually an inconsistency between the operation and the customer's activities.[3]

[3] See the second report of Mexico pursuant to Security Council resolution 1373 (2001) (S/2002/877), especially questions 3 and 4 relating to para. 1 (a) of the resolution.

Likewise, the purpose of the National Banking and Securities Commission is, within its area of competence, to oversee and regulate financial institutions so as to ensure their stability and proper functioning, and to maintain and promote the sound and balanced development of the financial system as a whole in order to protect the interests of the public.

The above-mentioned Commission is charged with inspection and oversight of the following entities: companies controlling financial groups, credit institutions, stockbrokerages, securities specialists, stock exchanges, investment firms, bonded warehouses, credit unions, financial lessors, financial factoring companies, savings and loan associations, exchange bureaux, limited-scope finance companies, securities-deposit institutions, clearing houses, securities ratings institutions, credit-information bureaux, persons operating as savings and loan associations, and other public institutions and trusts carrying out financial activities, with respect to which the Commission has oversight powers.

The National Insurance and Guarantees Commission and the National Commission on the Retirement Savings System share the same goals and responsibilities in respect of the financial sector which they oversee and monitor. The former is responsible for overseeing mutual insurance companies and guarantee institutions, while the latter supervises pension-fund administrators.

12. **Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:**

- **Identification(s) of the person or entities whose assets have been frozen;**
- **A description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**
- **The value of assets frozen.**

On 1 November 2002, the Mexican Government, by communication S/AC.37/2002/COMM.53/12, transmitted confidential information to the sanctions committee regarding the Consolidated List of individuals and entities associated with Osama bin Laden, Al-Qaida and the Taliban.

13. **Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.**

No movement has been recorded in Mexico relating to the unfreezing of funds, financial assets or economic assets that had previously been frozen.

14. **Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their**

territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

– **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.**

The Ministry of Finance and Public Credit (SHCP) has made available to financial institutions the lists of individuals and entities issued by the United Nations Security Council, in particular the lists prepared by the Security Council Committee established by resolution 1267 (1999) concerning Afghanistan, and those provided by the Government of the United States of America under its cooperation agreements, which contain the names of individuals and entities allegedly linked to terrorist activities.

The National Banking and Securities Commission, by official letter, has requested the Mexican Bankers Association, the Mexican Association of Limited-Scope Finance Companies, the Mexican Securities Dealers Association and the Mexican Exchange Bureaux Association to draw to the attention of their affiliates the lists in question, and recommendations are being formulated to the effect that these financial institutions should take special care and, where appropriate, report any operations they uncover that may have been carried out by the entities or individuals on the above-mentioned lists to the Division for Investigation of Operations, a unit of SHCP.

The National Insurance and Guarantees Commission and the Commission on the Retirement Savings System issue an official bulletin to the institutions which they oversee containing the lists of natural or legal persons linked to the financing of terrorism, and these institutions in turn inform their own communications and control committees of any operations that may be pertinent to the matter and examine each case in depth. Where appropriate, the reports are forwarded to the Financial Intelligence Unit, which will analyse the operations and transmit its opinion on the case, if necessary, to the competent authorities.

The financial institutions will refer any case they deem appropriate to the Financial Intelligence Unit through the relevant oversight commission; the Financial Intelligence Unit will analyse these operations and transmit its opinion on the case to the competent authorities.

Likewise, SHCP is taking steps to encourage all financial intermediaries to take every precaution to prevent the Mexican financial sector from being used by individuals or entities that finance, attempt to finance or are connected in any way to terrorist activities. In order to assist financial institutions in uncovering operations intended to finance terrorism, the financial authorities are preparing guidelines to fortify those institutions' ability to evaluate customers, and to provide them with better indicators for restricting services to certain individuals or entities.[4]

[4] See the first report of Mexico pursuant to Security Council resolution 1373 (2001) (S/2001/1254), especially the part relating to para. 1 (d) of the resolution.

- **Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.**

See the reply to question 11 in this report, particularly, the part pertaining to the supplementary report of Mexico submitted pursuant to Security Council resolution 1373 (2001) (S/2002/877), especially questions 1, 3 and 4, relating to paragraph 1 (a) of the resolution.

- **Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.**

See the reply to question 11 in this report, particularly the part pertaining to the supplementary report of Mexico submitted pursuant to Security Council resolution 1373 (2001) (S/2002/877), especially questions 1, 3 and 4, relating to paragraph 1 (a) of the resolution.

- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.**

There are no special regulations on the trade in precious commodities or diamonds. Most of these products are not subject to tariff regulations or restrictions, such as licences, official rules, etc. The tariff payable on the import of such items ranges from 0 to 23 per cent.

Article 9 of the Customs Act requires anyone carrying an amount in cash, national or foreign cheques, payment orders or any other payment instrument or a combination thereof that exceeds US$ 10,000 or its equivalent in the currency in question to declare it to the customs authorities upon entering or leaving Mexico.

- **Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

A draft bill is being prepared to effectively regulate non-profit and charitable organizations in order to comply with various international requirements and supplement the national financial controls designed to prevent illegal activities.

IV. Travel Ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of Listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2 (b) of resolution 1390 (2002)).

15. **Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.**

Border controls

The National Migration Institute has taken particular care in reviewing migration documents for nationals of countries from which persons travel only rarely to Mexico for migration or tourism purposes.

The issuance of documents for migration purposes is subject to the previous granting of an entry permit or a change in migratory status and/or characteristics; this entails a thorough analysis of the particulars of the foreign national before he can be permitted to enter or remain in Mexico. When the migration papers are issued, a series of official and security stamps are affixed (embossed stamp), as are the handwritten signatures of the authorizing officials.

Mexico has a total of 172 points of entry: 55 by land, 59 by sea and 58 by air. The National Migration Institute has migration officers permanently on duty at all those points, in order to prevent the entry of foreigners intending to use Mexican territory to carry out actions harmful to national security. Migration officials, together with the Federal Preventive Police, are authorized to carry out verification and monitoring duties.

At all points of entry, the Institute thoroughly inspects the documentation of persons wishing to enter Mexican territory. It has also set up a series of courses to train migration officials to detect forged documents. The Institute carries out the inspection of migration documents at points of entry as follows:

- The migration officer asks the foreigner for his or her documents, namely: a valid passport, migration papers and, where the person's nationality requires it, a Mexican visa and consular stamp. In addition, where the person is entering by air, the official checks that the person arriving has a ticket to return to his or her country of origin.

- The foreigner is interviewed in order to determine the reason for entering the country and his or her plans for staying in Mexico. In particular, the person is asked how long he or she intends to stay in the country, unless it is already specified in advance by a visa or consular stamp; the person is also asked which places he or she intends to visit. The official further determines whether the foreigner is financially solvent and what type of activities he or she intends to engage in.

- If the migration official authorizes the foreign national to enter, this concludes the procedure. If the official decides that a more thorough investigation is required, the foreign national is then interviewed by the duty supervisor who in turn reviews the facts.

- This second review is carried out by the Supervisor, sometimes in the presence of the Deputy Director of Local Operations; all documents in the person's possession are thoroughly examined.

If the Institute has the necessary information, it can decide at its border-control points whether foreign nationals should be granted or refused entry, even if for some reason the foreign national has previously been granted an entry permit and/or possesses a Mexican visa or consular stamp. These checks provide the information necessary to prevent the movement of criminals, such as terrorists.

The Institute also trains airline ground personnel in the detection of forged documents. Thus, the airlines are the first line of defence in the detection of foreign nationals attempting to enter the country illegally.

The Institute, the Ministry of Defence, the Ministry of the Navy, the Attorney-General's Office and the Federal Preventive Police maintain ongoing cooperation, within their respective spheres of competence, in the verification and permanent

monitoring of the movement of persons and organizations connected with terrorist acts.

In addition, the Institute, the General Customs Administration, the Centre for Investigations and National Security, the Ministry of Foreign Affairs and the Attorney-General's Office, in coordination with the Customs Bureau of the Department of Homeland Security of the United States of America, have joined forces in order to implement the Advanced Passenger Information System (APIS) in Mexico. The purpose of APIS is to centralize the available information which falls within the parameters of terrorism and cross-check it with the passenger information of airlines flying between Mexico and the United States in order to provide timely warnings of probable links to terrorist-related organizations or actions and enable the participating agencies to take the necessary steps.

In the bilateral sphere, Mexico has established cooperation regimes with the United States (U.S.-Mexico Smart Border Partnership) and Guatemala (Memorandum of Understanding concerning Cooperation to Safeguard Security on the Border between the Two Countries), in which the fight against terrorism is one of the areas receiving attention on a priority basis. A similar instrument is being negotiated with Belize.

In this framework, information-exchange programmes have been strengthened in order to improve the inspection procedures at points of entry to and departure from the country; this will help to prevent and, where necessary, detect the entry and/or transit of persons linked to terrorist groups.

16. **Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.**

The list has been disseminated to the regional offices of the National Migration Institute.

The Institute distributes at border ports, on an ongoing basis, migration-alert lists which include the names of individuals covered by the various sanctions regimes established by the Security Council and its committees.

17. **How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?**

The List is transmitted to the regional offices whenever the Committee sends out notices of updates.

While the capability of searching List data using electronic means does not currently exist at all entry points, the Institute is developing the Integrated Migration Operating System, which will provide the Government of Mexico with this capability in the short term, as described in the following table:

Entry point	*First stage September 2003*	*Second stage August 2004*	*Third stage February 2005*
Air	84.3%	92.2%	96.9%
Sea	80.8%	91.5%	97.2%
Land	80.2%	93.1%	96.6%

18. **Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.**

To date there have been no stops of listed individuals.

19. **Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?**

Please see the reply to question 2 in this report. To date none of the listed individuals has applied for a Mexican visa.

V. Arms Embargo

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer, to Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related materiel of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities (paragraph 2 (c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)).

20. **What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Osama bin Laden members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?**

The Ministry of Public Security of the Federal Government, through its Federal Preventive Police Decentralized Administrative Unit (Intelligence Coordination for Prevention), has entrusted the General Directorate of Trafficking and Contraband with responsibility for investigating and neutralizing activities involving the illegal transit of arms which could be used by organized crime and by disruptive, subversive or terrorist groups. The Administrative Unit maintains permanent liaison with the specialized staff of the Ministry of Defence, the Ministry of the Navy and the Centre for Investigations and National Security. The General Directorate of Trafficking and Contraband conducts field research and desk studies aimed at preventing situations arising out of the legal and illegal arms trade that may pose a risk to public security. It also maintains an accurate and updated record of arms shipments seized in the national territory.

In the case of supply of weapons and explosives to terrorist groups, the Federal Firearms and Explosives Act regulates, through strict controls, the sale, possession, transport, import and export of firearms and explosives in Mexican territory.

This Act does not explicitly make it a crime to supply weapons to terrorists as such, but it does penalize the stockpiling, possession, import and export of firearms and explosives without a licence or permit issued by the Ministry of Defence. Articles 84, 84 bis and 84 ter of the Federal Firearms and Explosives Act prohibit

the illegal importation into the national territory of weapons, ammunition, cartridges, explosives and controlled substances and impose penalties of from 3 to 30 years' imprisonment.

In addition, articles 160 and 162 of the Federal Penal Code impose penalties of between three months' and three years' imprisonment or a fine equivalent to the forfeiture of 180 to 360 days' general minimum wage on any person who illicitly carries, manufactures, imports or stockpiles instruments which may be used solely for attack purposes and have no work-related or recreational application.

In addition, the Federal Organized Crime Act characterizes as organized crimes the arms stockpiling and trafficking referred to in articles 83 bis and 84 of the Federal Firearms and Explosives Act.

With regard to combating the supply of biological weapons, article 455 of the Health Act imposes a penalty of one to eight years' imprisonment and a fine equivalent to 100 to 2,000 days' general minimum wage on any person who, in the absence of a licence from the competent health authorities or in contravention of the terms under which such licence was issued, imports, possesses, isolates, cultivates, transports, stores or, in general, performs any action using pathogenic agents or their vectors, where these are highly dangerous to human health, in accordance with the Official Mexican Standards issued by the Ministry of Health.

With respect to the supply of chemical weapons, article 456 of the above-mentioned Act imposes a penalty of one to eight years' imprisonment and a fine equivalent to 100 to 2,000 days' general minimum wage on any person who, in the absence of a licence from the Ministry of Health or in contravention of the terms under which such licence was issued, prepares, imports into the national territory, transports, distributes, sells, stores, possesses, disposes of or, in general, performs any action using the toxic or dangerous substances referred to in the Act and resulting in an immediate risk to human health.

Mexico is a party to the following international instruments, which are applicable to the prevention of the supply of weapons to terrorists:

- Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (ratified 11/2/1982), and three of its Protocols:
  - Protocol I. Protocol on Non-Detectable Fragments (ratified 11/2/1982);
  - Protocol III. Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (ratified 11/2/1982);
  - Protocol IV. Protocol on Blinding Laser Weapons (ratified 10/3/1998);
- Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials (ratified 1/6/1998);
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (ratified 29/8/1994);
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (ratified 8/4/1974);

- Convention on the Physical Protection of Nuclear Material (ratified 4/4/1988);
- Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementary to the United Nations Convention against Transnational Organized Crime (ratified 10/4/2003).

The competent authorities are taking the following specific steps to prevent the illicit trafficking of weapons:

- Military personnel appointed by the Ministry of Defence and seconded by the corresponding military zone inspect the import or export of firearms, explosives and related chemical substances, checking that the material being imported or exported corresponds exactly to the quantities and characteristics specified in the licences issued by that Ministry;
- Military personnel inspect vehicles authorized to transport firearms, explosives and related chemical substances to check, during the transferral, that such material is the same as that licensed to be transported;
- When the material arrives at the facilities or magazines of the enterprises that have purchased it, the respective Territorial Command appoints military personnel to take control of and verify the delivery or removal of the weapons, ammunition and explosive material or related chemical substances, again checking the quantities and characteristics of the material authorized;
- The Ministry of Defence and the Ministry of the Navy, in coordination with authorities at the three levels of government and with the private sector, carry out the following: ongoing campaigns to control the possession, carrying and use of firearms through coordination meetings with the authorities involved; radio and television publicity campaigns to raise public awareness; campaigns to promote the registration and surrender of weapons, ammunition and explosives; and publication of the results.[5]

The General Customs Administration has instructed customs administrators throughout the country to strengthen the security measures to be followed in connection with the export or import of chemical or biological products, weapons, ammunition and hazardous substances, and with irregular or unusual operations. In all operations or movements of persons that pose a risk, any goods being transported are inspected; the luggage of passengers arriving on international flights and/or departing for the United States is X-rayed, and gamma ray scanners are used to check every single export and import shipment by rail at the northern border. Coordination with the local authorities is routine, so that appropriate action can be taken immediately to deal with any out-of-the-ordinary occurrence. The Administration coordinates with the Customs and Border Protection Bureau to inspect passengers and cargo shipments. If there is any indication of danger at the northern or southern borders, members of the Police and Customs Inspection Support Unit are deployed, in coordination if necessary with the military garrison of the Ministry of Defence; in the case of maritime customs, in coordination with the Ministry of the Navy; in the case of the airports in Mexico City, Guadalajara and Monterrey, with the Ministry of Defence, the Federal Preventive Police and the

[5] See the report of Mexico pursuant to Security Council resolution 1373 (2001) (S/2001/1254), especially the part relating to para. 2 (a) of the resolution.

National Migration Institute; and in the case of Cancún, with the Ministry of the Navy or the Ministry of Defence and the National Migration Institute.

21. **What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?**

The Federal Penal Code does not make the violation of the arms embargo a separate crime.

22. **Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.**

In Mexico, the legal provisions governing controls over the regular sale of firearms and explosives are in article 10 of the Constitution and articles 4, 7, 17, 37, 38, 40, 41, 43, 48-53, 55, 56, 68-70 and 73 of the Federal Firearms and Explosives Act; the administrative provisions are to be found in article 48, paragraph V, of the corresponding regulations.

The controls applicable to the sale of firearms and explosives are as follows:

(1) Under article 4 of the Federal Firearms and Explosives Act, control of all weapons in the country, for which a federal weapons registry is to be maintained, is the responsibility of the executive branch, acting through the Ministry of Defence, in accordance with the respective powers entrusted to them by that Act and the corresponding regulations;

(2) The control referred to in article 4 is the exclusive responsibility of the Ministry of Defence;

(3) For that purpose, any individual or legal person, public or private, submits an application for authorization to sell firearms or explosives, which is granted provided that the legal requirements have been met;

(4) Once a general sales licence is issued, the holder submits a monthly report on sales activities and is also obliged to make the necessary arrangements for inspections by the Ministry of Defence;

(5) A holder of a general sales licence who sells a firearm or explosives must require the customer to produce identification and a special permit issued by the Ministry of Defence for the purchase of the item in question, and must record the sales transaction in the appropriate ledger;

(6) Persons purchasing firearms or explosives on the black-market must be reported to the Attorney-General's Office for violation of the Federal Firearms and Explosives Act. Such purchases are punishable by imprisonment and the applicable fine, and by confiscation of the firearms or explosives;

(7) Currently, no licences are issued to individuals for the sale of firearms;

(8) Such sales, in strict compliance with the applicable law, are the sole prerogative of the Arms and Munitions Trade Unit of the Department of Military Industry (previously Department of Manufacturing) in the Ministry of Defence.[6]

To ensure that agencies and individuals are complying with the laws governing the sale of arms and ammunition, they must without exception produce the documentation required by law.

23. **Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?**

Armaments are produced in Mexico solely to meet the needs of the national Armed Forces. Only a tiny percentage of the ammunition sold is intended for hunting or marksmanship and that is sold by specialized enterprises which have the necessary licences and are subject to their restrictions.

Mexico has in place the legal, commercial and administrative controls that enable it to ensure that weapons and ammunition are not being diverted to illegal users.

VI. Assistance and conclusion

24. **Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.**

Yes, provided that a specific request is made by a Government and that it conforms to the provisions of the Mexican legal system.

25. **Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.**

The Government of Mexico is complying strictly with the provisions of Security Council resolution 1455 (2003), and has accordingly adopted the measures indicated in paragraph 5. Thus far, it has had no problem whatsoever in implementing the resolution.

26. **Please include any additional information you believe pertinent.**

There are no additional comments to be made.

[6] See the report of Mexico pursuant to Security Council resolution 1373 (2001) (S/2002/877), especially question 12 relating to para. 2 (a) of the resolution.